

**Security Council**

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Report of the Secretary-General on his mission of good offices in Cyprus*Summary*

On 13 February 2004, the parties in Cyprus committed to negotiating in good faith on the basis of the settlement plan dated 26 February 2003, to achieve a comprehensive settlement of the Cyprus problem through separate and simultaneous referenda before 1 May 2004. To this end, they agreed to a three-phase negotiation and finalization procedure.

In Phase 1 of the effort, the parties negotiated in Cyprus between 19 February and 22 March 2004. This effort did not produce significant progress at the political level. However, positive results were achieved at the technical level by experts from the two sides assisted by United Nations experts.

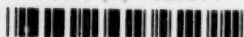
In Phase 2 of the effort, I convened a meeting of the two sides in Bürgenstock, Switzerland, beginning on 24 March 2004, with the participation of Greece and Turkey in order to lend their collaboration. Full use was not made of the opportunity for concentrated negotiations and consultations to agree on a finalized text by 29 March 2004, and agreement did not prove possible.

In Phase 3 of the effort, after consultations with the parties, I finalized on 31 March 2004 the text to be submitted to referenda on the basis of the plan, maintaining its overall balance while addressing to the extent possible the key concerns of each side.

The proposed Foundation Agreement in "The Comprehensive Settlement of the Cyprus Problem" as finalized was submitted to separate simultaneous referenda on 24 April 2004. It was rejected by the Greek Cypriot electorate by a margin of three to one, and approved by the Turkish Cypriot electorate by a margin of two to one. It therefore did not enter into force.

This outcome represents another missed opportunity to resolve the Cyprus problem. The effort over the last four and a half years has achieved a great deal which should be preserved. However, none of those achievements is a substitute for a comprehensive settlement.

The decision of the Greek Cypriots must be respected. However, it is a major setback. They may wish to reflect on the implications of the vote in the coming period. If they remain willing to resolve the Cyprus problem through a bicommunal,



bizonal federation, this needs to be demonstrated. Lingering Greek Cypriot concerns about security and implementation of the plan need to be articulated with clarity and finality. The Security Council would be well advised to stand ready to address such concerns.

The decision of the Turkish Cypriots is to be welcomed. The Turkish Cypriot leadership and Turkey have made clear their respect for the wish of the Turkish Cypriots to reunify in a bicomunal, bizonal federation. The Turkish Cypriot vote has undone any rationale for pressuring and isolating them. I would hope that the members of the Council can give a strong lead to all States to cooperate both bilaterally and in international bodies, to eliminate unnecessary restrictions and barriers that have the effect of isolating the Turkish Cypriots and impeding their development — not for the purposes of affording recognition or assisting secession, but as a positive contribution to the goal of reunification.

There is no apparent basis for resuming the good offices effort while the current stalemate continues.

However, given the watershed that has been reached in efforts to resolve the Cyprus problem, a review of the full range of United Nations peace activities in Cyprus is timely, as outlined in the present report.

Introduction

1. I last comprehensively reported to the Security Council on my mission of good offices on 1 April 2003 (S/2003/398), although on 16 April 2004 (see S/2004/302) I submitted certain matters to the Security Council for its decision pursuant to the process that was then in train. The present report covers the period since April 2003, culminating in the referenda of 24 April 2004, when the proposed Foundation Agreement in the finalized "Comprehensive Settlement of the Cyprus Problem" was submitted for approval on each side. The Greek Cypriot electorate, by a margin of three to one, rejected the settlement proposal; on the Turkish Cypriot side, it was approved by a margin of two to one. Since the plan required approval on both sides, the Cyprus problem remains unsettled.

2. The referenda mark a watershed in the history of United Nations efforts in Cyprus. They are the first time that the people have been asked directly for their views on a settlement proposal. I fully respect the outcome on each side, and I have been reflecting on what they mean. The present report is the outcome of that reflection. It describes the effort recently completed and contains a series of observations about the opportunity missed, the implications of the vote on each side, and the way ahead.

The 13 February 2004 agreement

3. After the failure of the previous effort at The Hague on 10 and 11 March 2003, I informed the Security Council that I did not propose to take a new initiative unless and until there was solid reason to believe that the political will existed necessary for a successful outcome. To that end, I sought "an unequivocally stated preparedness on the part of the leaders of both sides, fully and determinedly backed at the highest political level in both motherlands, to commit themselves (a) to finalize the plan (without reopening its basic principles or essential trade-offs) by a specific date with United Nations assistance, and (b) to put it to separate simultaneous referenda as provided for in the plan on a date certain soon thereafter" (S/2003/398, para. 148).

4. These procedures were fully consistent with the position taken by the Greek Cypriot leader, Tassos Papadopoulos, at The Hague. Mr. Papadopoulos was at that time prepared to submit the plan to referendum provided certain procedural conditions were met (*ibid.*, para. 56), and told me that he would want to support it. I was conscious that success could not be assured in any renewed effort, but I was sure that there was little prospect of success without the commitments of all concerned to the procedure set out above.

5. The Security Council in resolution 1475 (2003) of 14 April 2003 gave its strong support to my "carefully balanced plan" — namely, the "Basis for Agreement on a Comprehensive Settlement of the Cyprus Problem" dated 26 February 2003 — as a "unique basis for further negotiations", and it called on all concerned to negotiate within the framework of my good offices, using the plan to reach a comprehensive settlement as set forth in paragraphs 144 to 151 of my report.

6. Most of 2003 was a fallow period in terms of my good offices. But I continued to follow developments closely, including the lifting of restrictions on crossings of

the buffer zone in April, and the December vote in the north of the island, which brought to the fore a new Turkish Cypriot leadership.

7. For its part, the Government of Turkey was putting together the elements of a new policy on Cyprus, which was conveyed to me by Prime Minister Recep Tayyip Erdoğan when we met in Davos on 24 January 2004. He told me that Turkey supported a resumption of negotiations. He expressed preferences for dealing with the main issues by 1 May 2004, and for a political figure to handle the negotiations, but was open to discussion on these points. He added that, as far as Turkey was concerned, it had no objection to my "filling in the blanks" in the plan should the parties not be able to agree on all issues. He assured me that, henceforth, the Turkish side, including the Turkish Cypriots, would be "one step ahead" in the effort.

8. Already in December, I had received from the Greek Cypriot leader a letter calling for the resumption of substantive negotiations on the basis of the plan. When I met him in Brussels on 29 January 2004, he reiterated this call, stressing categorically that he sought a solution before 1 May 2004. He told me that if a divided Cyprus joined the European Union, he did not know how many problems that would entail. He reassured me that he did not seek "forty or fifty" changes to the plan, and that all the changes he would seek would be within the parameters of the plan. We discussed his view that it would be better for negotiations to resume first before a decision was taken about going to referendum, and he said he would get back to me on his idea that there should be parameters to guide me should it fall to me to finalize the plan.

9. I also discussed the matter with the Government and the Leader of the Opposition of Greece. Both supported a renewal of my efforts, notwithstanding the prospect of a general election in Greece. The European Union, strongly preferring the accession of a reunited Cyprus on 1 May 2004, supported a resumption of the effort.

10. After weighing the situation, on 4 February 2004, I wrote to Mr. Papadopoulos and to Rauf Denktash, the Turkish Cypriot leader, inviting them to come to New York to begin negotiations on 10 February 2004. I wrote in similar terms to the Prime Ministers of the guarantor Powers — Greece, Turkey and the United Kingdom — inviting them to have a representative on hand for the resumption of negotiations. I suggested modalities which could give effect to the procedure contained in my 1 April 2003 report, so as to ensure that negotiations would be completed and the plan finalized by 31 March 2004, that the guarantors would be fully committed to meeting their obligations, and that referenda would be conducted on a fixed date in advance of 1 May 2004. My invitation was accepted by all parties.

11. On 10 February 2004, each leader put forward, at my request, an overview of the changes his side sought to the plan. However, at the initiative of Mr. Papadopoulos, he and Mr. Denktash agreed that they could not accept the procedure I had suggested, either relating to the finalization of the plan or the commitment to hold a referendum.

12. After I asked the parties to reflect overnight, Mr. Denktash changed his position on 11 February. He proposed a three-stage procedure which he informed me had the support of Turkey and which conformed broadly with the parameters I had proposed. The procedure enlarged the role foreseen for me, from completing any unfinished parts of the plan ("filling in the blanks") to resolving any continuing and

persistent deadlocks in the negotiations — thus ruling out the possibility, which each side regarded as unacceptable, of the plan going to referendum unchanged. After studying the proposal, Mr. Papadopoulos sought certain clarifications. To facilitate agreement, I then proposed a draft press statement which retained the core elements of Mr. Denktash's proposal, incorporated the clarifications sought by Mr. Papadopoulos, and built in other elements contained in my 4 February letter.

13. The final terms of this statement were negotiated over the course of the next 48 hours, culminating in a late-night shuttle on 12 and 13 February by my Special Adviser, Alvaro de Soto, between the leaders, as well as the representatives of Greece and Turkey. The main issues dividing the parties at the end were whether there should be an institutional participation in the negotiations by organizations other than the United Nations, and the way in which the role of Greece and Turkey in the culminating phases of the process would be presented.

14. On 13 February, I sent to all parties a final proposal to resolve these issues, to which all agreed. Accordingly, I was pleased to announce the terms of what became known as the 13 February agreement, which committed the parties to a three-phase process leading to referendum on a finalized plan before 1 May 2004 (see annex I).

The first phase of the process in Cyprus between 19 February and 22 March 2004

15. The negotiations reconvened in Cyprus on 19 February 2004, in the United Nations Protected Area, with meetings at the political level between the leaders accompanied by their delegations in the presence of my Special Adviser and his delegation. On the Turkish Cypriot side, in addition to Rauf Denktash, the delegation included Mehmet Ali Talat and Serdar Denktash. In New York and during the first phase, the United Nations dealt with them as a triumvirate who together spoke for the Turkish Cypriot side.

16. Following the opening meeting on 19 February 2004, at the invitation of my Special Adviser, the European Commissioner for Enlargement, Günter Verheugen, briefed the leaders jointly on the European Union position concerning accommodation of a settlement, underlining also the Union's strong desire for a positive outcome.

17. In the initial meetings on the island, the leaders elaborated on the changes they had presented to me in New York on 10 February. The Greek Cypriot side stated that its primary objective was to improve what it called the workability of the plan, so as to render more functional, and therefore more viable, the United Cyprus Republic (which was to be the end result of the negotiation). The Turkish Cypriot side stated that its primary objective was to strengthen what it called bizonality, by which it meant the Turkish Cypriot character of the Turkish Cypriot State, and the maintenance of political equality over time, within the United Cyprus Republic.

18. After initial discussions, my Special Adviser clustered the issues for consideration, and asked the parties to explain in specific terms, including proposed textual amendments, the changes they sought to the plan, with a view to facilitating negotiation.

19. The Turkish Cypriot side submitted on 24 February 2004 a list of proposed textual changes to the plan, covering all issues. While that paper had the virtue of

concision and of making clear the shape of the Turkish Cypriot side's demands in a single package, it proposed far-reaching changes, a number of which would have substantially altered key parameters of the plan. My Special Adviser explained this to the Turkish Cypriot side and to Turkey, and informed the Greek Cypriot side that he had done so. In suggesting agendas for meetings, and in pursuing discussions of the items clustered for consideration, my Special Adviser left aside Turkish Cypriot demands which were clearly outside the parameters of the plan. Despite United Nations requests, it was not until mid-March that the Turkish Cypriot side replaced their initial paper with a less far-reaching set of proposed textual amendments, described as a priority list. Also, despite the interest expressed by the Turkish Cypriot side in straightening the boundary between the constituent states, it failed to produce a territorial proposal, or to propose a way for the issue to be discussed.

20. The Greek Cypriot side, by contrast, took each issue in turn, and produced dense and lengthy papers, one after another, explaining the changes sought and annexing proposed textual amendments. They argued that piecemeal presentation of positions for discussion following the clusters suggested by the United Nations would assist in producing, down the line, more refined proposals. As they continued to present papers, it became apparent that the 10 February paper summary of Greek Cypriot demands was far from exhaustive. The Greek Cypriot side declined to provide a comprehensive paper of all the textual amendments it sought until mid-way through Phase 2 (in Bürgenstock, Switzerland), and declined to prioritize its demands, despite my Special Adviser's request of 15 March to both sides to do so.

21. The Greek Cypriot side stated that none of its proposed changes took away any rights from Turkish Cypriots, and therefore that few, if any, of its amendments should require trade-offs on subjects of interest to the Turkish Cypriots, notwithstanding the perception of those amendments on the Turkish Cypriot side. By contrast, the Turkish Cypriot side was generally prepared to engage on Greek Cypriot proposals and to discuss matters on a realistic basis, and sought to make counter-offers and compromise proposals.

22. The Greek Cypriot side regularly insisted on full satisfaction of its demands, while arguing that the Turkish Cypriot paper of 24 February was outside the parameters of the plan and thus precluded engagement with Turkish Cypriot proposals. When the Turkish Cypriot side produced a priority list on 18 March, this did not alter the Greek Cypriot attitude to Turkish Cypriot concerns. (That paper, together with the letter of transmittal from the United Nations to the Greek Cypriot side, found its way into the press.) The Turkish Cypriot side argued that the Greek Cypriot delay in exposing the extent of their demands was preventing the beginning of real negotiation, and amounted to filibustering. The Greek Cypriot side countered that the Turkish Cypriot failure to produce a territorial proposal left a hole at the centre of Turkish Cypriot demands, and left the Greek Cypriot side in the dark. While the discussions were therefore far less fruitful than they might have been, at least, by mid-March, the vast bulk of the material was on the table.

23. An additional factor inhibiting frank discussions at the table was the regular public disclosure of the contents of the negotiations, usually with a negative spin, either by Greek Cypriot leakage, or by the daily oral briefings of Mr. Denktash to the press, ostensibly for the Turkish Cypriot public.

24. With little progress being made at the table, the United Nations sought to have regular working-level contacts with members of the delegations on each side to

elicit greater frankness and float possible areas of compromise. The Turkish Cypriot side was relatively open in such consultations, the Greek Cypriot side less so. An additional difficulty was that accounts of bilateral meetings between my Special Adviser and the Greek Cypriot leader, at least when teams were present, often turned up in the press presented in a negative light. The Greek Cypriot leader told my Special Adviser that he deplored such leaks.

25. Since it was proving difficult to make progress through either face-to-face meetings or working-level bilateral consultations, my Special Adviser suggested that the direct meetings be halted and that, beginning on 15 March, he shuttle between the leaders in an effort to narrow differences and facilitate give and take in the run-up to Phase 2 of the process — a format to which each side readily agreed. He put to each side a framework to allow for trade-offs, and sought to elicit from them the clear identification of priorities, reaffirming that the package of overall changes to the plan would have to be balanced across all issues.

26. The Greek Cypriot side was critical of the framework suggested, while the Turkish Cypriot side responded more positively. The asymmetry of the response, together with the mini-crisis provoked by Mr. Rauf Denktaş's decision not to attend Phase 2 of the process, prevented the United Nations from proposing trade-offs on the major issues in the time that remained during Phase 1. However, the United Nations focused on at least clearing away some of the secondary issues in the negotiation before the end of Phase 1. For this purpose, the leaders were brought together for one last meeting on the island on 22 March 2004. This was the last occasion on which Mr. Rauf Denktaş participated in the process.

27. During this first phase, representatives of Greece and Turkey also met in Athens on 17 March 2004, at the invitation of the United Nations, to discuss security. In these talks, a number of issues were ironed out, but others were deferred until Bürgenstock.

28. I myself kept a close eye on the effort under way, being regularly briefed by my Special Adviser, and sending the Under-Secretary-General for Political Affairs, Kieran Prendergast, to the island twice to review developments with Mr. de Soto and his team and the leadership on both sides.

29. In contrast to the slow progress at the political level, the participants in the seven technical committees established by agreement of the leaders under the chairmanship of the United Nations produced extremely positive results. Their work produced 131 completed laws and cooperation agreements (running to 9,000 pages), a list of 1,134 treaties and instruments binding on the United Cyprus Republic, a recommendation from among 1,506 entries of a flag for the United Cyprus Republic, a recommendation from among 111 entries of an anthem for the United Cyprus Republic, a series of detailed recommendations on the economic and financial aspects of the plan and its implementation, the organizational charts of the federal government, comprising 6,181 positions, and a list of buildings on each side to house the federal government during a transitional period. In total, almost 300 Greek Cypriots and Turkish Cypriots were involved in the technical discussions, supported by a team of some 50 United Nations experts, many of whom were seconded by the European Commission and other friendly Governments and institutions, notably the Governments of Canada, the Netherlands, Germany, Luxembourg, Switzerland and the United States of America, and the European Central Bank, the International Monetary Fund and the World Bank, as well as the United Nations Development

Programme/United Nations Office for Project Services and the Office of the United Nations High Commissioner for Refugees. At the height of the effort, it was normal for 12 subcommittee meetings to be held simultaneously, in addition to bilateral discussions with the parties. An overview of their work may be found in annex II to the present report.

The second and third phases of the process in Bürgenstock between 24 and 31 March 2004

30. By early March, it was apparent that Phase 1 was unlikely to produce final agreement. I decided that Phase 2, and if necessary Phase 3, should take place in a setting that lent itself to the "concentrated effort" that was required, by ensuring that all participants would be available to the United Nations and to each other round the clock. This was all the more important given the amount of material that had to be digested and negotiated if agreement were to be reached by 29 March 2004. I was also determined to ensure that, if the burden fell to me to finalize the text by 31 March 2004, I should do so in close consultation with all concerned.

31. I therefore took up the generous offer of the Government of Switzerland to make available premises in Bürgenstock, a hotel complex near Lucerne, beginning on 24 March. In response to my invitation, Mr. Papadopoulos said he would attend, while Mr. Denktash indicated that he would not do so, but authorized Mr. Talat and Mr. Serdar Denktash to negotiate with full powers on behalf of the Turkish Cypriots. The Foreign Ministers of Greece and Turkey agreed to come to Bürgenstock, to be joined on 28 and 29 March by their respective Prime Ministers. I myself would join the effort on 28 March. The European Commissioner for Enlargement also joined us at Bürgenstock on 29 March.

32. With all the players under one roof in Bürgenstock, and basically all the material on the table, there should have been real incentive for the participants to try to agree on the finalized plan. Given that everyone was aware that it might fall to the United Nations to finalize the plan, there was also every reason for the parties to impress upon the United Nations their key priorities, and to intimate what changes they might be prepared to live with to accommodate the other side.

33. When, on 24 March, my Special Adviser proposed an opening meeting of the two leaders, with Greece and Turkey present in order to lend their collaboration, the Greek Cypriot side indicated that it did not wish to meet in this format. For its part, Turkey indicated that it did not see the point of having come to Bürgenstock if Greece and Turkey could not be present in meetings in order to lend their collaboration, in view of the 13 February agreement.

34. It was therefore not possible to arrange direct meetings, in the absence of which my Special Adviser, and I myself after my arrival, hosted social gatherings which broke the ice among the participants but did not lead to real negotiation between or among them. Instead, the United Nations shuttled between the parties to the extent possible, in an effort to broker areas of agreement.

35. However, these efforts were complicated by the fact that my Special Adviser was, on a number of occasions, not able to meet the Greek Cypriot leader at Bürgenstock, due to Mr. Papadopoulos' other commitments in Bürgenstock and Brussels. With the first day taken up with procedure, and no meetings with the

Greek Cypriot leader on the following three days, full use was not made of four of the six days available for this critical negotiation.

36. On 25 March 2004, the United Nations confidentially sent to the leaders a series of papers for their comment and reaction, including a framework for signing an agreement should one emerge by 29 March. This framework was designed to address key concerns of the two sides related to legal security issues. The Turkish Cypriot side conveyed to the United Nations its reaction to this framework. The Greek Cypriot side did not but publicly indicated concerns about it.

37. The Greek Cypriot side did not produce a consolidated list of demands until 25 March 2004 — which ran to 44 pages. At no stage was there any indication of priorities among these demands. The Turkish Cypriot side and Turkey had repeatedly asked for a list of priorities in response to theirs, indicating that they were prepared to meet certain Greek Cypriot demands as part of a series of trade-offs. While in some areas progress was made through working-level contacts — notably property and residency, where the United Nations discussed with members of the negotiating teams a package of improvements and received positive reactions — overall, the opportunity was not taken for open and frank dialogue at Bürgenstock.

38. Only after all opportunities for dialogue had been exhausted, and every effort made to sound the parties out on possible changes, did I make a series of bridging proposals, presented in the form of a revised text with changes highlighted for ease of consideration (together with bridging proposals on the relatively small number of outstanding issues in the work of the laws and treaties committees).

39. Following these bridging proposals, the Turkish Cypriot side and Turkey made a number of comments and proposals for further amendments. Each indicated that it would be prepared to sign the plan to authenticate it as the text to be submitted to referendum.

40. The Greek Cypriot side was dissatisfied with my bridging proposals and made this clear publicly. This negative public reaction was reflected in the resulting media coverage on the Greek Cypriot side, aided by a misreading, based on information dribbling out of the talks, of what the Turkish side had apparently sought and obtained. In reacting to my proposals on 30 March, the Greek Cypriot side for the first time communicated its views on the proposals the United Nations had transmitted regarding a framework for signature. This was also the first occasion that the Greek Cypriot side expressed interest in specified pieces of additional territory. Greece expressed its concern about certain aspects of the security provisions of the settlement.

41. By this stage, and with agreement clearly not achievable, the process had moved to Phase 3 as envisaged in the 13 February agreement, in which I would use my discretion, in the event of continuing and persistent deadlock, to finalize the text on the basis of my plan. Eventually, at close to midnight on 31 March 2004, I presented a finalized plan, which included further changes beyond those already suggested in my bridging proposals, including certain alterations of those proposals. As the plan, at this stage, no longer provided for signature, the covering pages included in all previous versions were omitted, and instead the plan was submitted under cover of a letter which outlined the procedures to be followed during April in the run-up to the referenda.

The structure of the finalized plan

42. "The Comprehensive Settlement of the Cyprus Problem" dated 31 March 2004, as finalized on that date and technically corrected by corrigenda and clarifications dated 18 April 2004, has been made available in the original English to the members of the Security Council (and may be viewed at www.annanplan.org or by calling extension 3-9002). It comprises the following appendices:

A. Foundation Agreement

This included the 14 Main Articles of the Foundation Agreement (which summarize the key elements of the plan), to which were annexed the Constitution of the United Cyprus Republic, its constitutional laws, its Federal Laws, the Cooperation agreements between the federal government and the constituent states, the list of international treaties and instruments binding on the United Cyprus Republic, the territorial arrangements, the provisions relating to property affected by events since 1963, the provisions establishing the Reconciliation Commission, and the provisions on the coming into being of the new state of affairs in Cyprus. This was the part of the plan that was put to referendum on 24 April 2004, a date fixed in Bürgenstock after consultation with all parties.

B. Constituent state constitutions

The respective constituent state constitution, which had been checked for consistency with the Foundation Agreement and exchanged for information between the two sides, was also put to referendum on each side on 24 April.

C. Treaty on matters related to the new state of affairs in Cyprus

This treaty provided for a Monitoring Committee and for Additional Protocols to the Treaties of Establishment, Guarantee and Alliance, as well as transitional security arrangements related to dissolution of local forces and withdrawal and redeployment of Greek and Turkish forces. Following the completion of all internal ratification procedures by the guarantors after the referendum, this treaty was to be signed into force on 29 April 2004; the Foundation Agreement would only enter into force once the guarantors had signed this treaty into force, thereby bringing into being the new state of affairs in Cyprus, after which the Co-Presidents of the United Cyprus Republic would sign, bringing the Treaty itself into force.

D. Draft Act of Adaptation of the terms of accession of the United Cyprus Republic to the European Union

This instrument was prepared in close consultation with the European Commission and would accommodate the settlement in line with the principles on which the European Union is founded. The Council of the European Union would have taken this up before accession on 1 May 2004.

E. Matters to be submitted to the Security Council for decision

This contained the elements on which the Security Council was to take decisions to enter into force simultaneously with the Foundation Agreement, by which the Council would endorse the Foundation Agreement, prohibit the supply of arms to Cyprus, and authorize a United Nations operation (as fully elaborated in my report of 16 April 2004 (S/2004/302)). Mr. Papadopoulos subsequently indicated his desire that the Foundation Agreement not be endorsed prior to referendum, a view which was taken on board and conveyed to the Security Council.

F. Measures to be taken during April 2004

This contained a work programme for April to ensure that the federal public service and federal property and buildings would be provided for, that a list of no more than 45,000 persons would be provided for the purposes of the federal citizenship law, and that the members of the transitional government would be identified should the referenda be successful.

A summary of the main improvements made in the finalized plan

43. Given the many hundreds of pages of papers submitted in the process, the number of meetings and discussions with the parties, and the intensity of the effort, it is impossible to provide a full negotiating history of every change made in the plan, and it would tax the patience of even the keenest reader were all the clarifications provided and minor improvements made to the plan to be detailed in the present report. What follows is a summary of key changes made. This account assumes knowledge of the plan as it stood when negotiations resumed — a description of which is provided in paragraphs 61 to 128 of my report of 1 April 2003 (S/2003/398). The changes made in the finalization process were designed to address to the extent possible the key outstanding concerns conveyed by the leaders to the United Nations, bearing in mind the attitude of both parties, and the need to maintain the overall balance.

Improvements largely inspired by Greek Cypriot concerns

44. For the Greek Cypriot side, the plan was significantly improved to address its concerns regarding the functionality of the federal government. The Presidential Council was enlarged from six to nine members (with the additional three being non-voting). The offices of President and Vice-President would not rotate among all members through the five-year term of the Council, but instead alternate on a 20-month basis between one member from the Greek Cypriot State and one member from the Turkish Cypriot State, starting with the former (who would thus be President for 40 of the 60 months). The period of transitional government was shortened from 30 months to 2 months, and its character altered by eradicating the transitional executive Co-Presidency. The arrangements for cooperation relating to European Union affairs were streamlined, the structure of the Central Bank was overhauled, and a Court of Primary Federal Jurisdiction was created, all inspired by Greek Cypriot proposals. The already overburdened technical committees were pressed to complete all 131 federal laws (almost all based on Greek Cypriot drafts), the list of treaties binding on Cyprus, and a blueprint for the federal public service,

to ensure that in all these vital areas the United Cyprus Republic would be fully functional from day one. A range of economic and financial improvements were also made to the plan, which largely reflected recommendations agreed at the technical level between the parties.

45. The Greek Cypriot side was also concerned that the plan be fully and completely implemented, and sought assurances that Turkey and the Turkish Cypriots would honour their side of the bargain. To this end, the mode of entry into force was changed to ensure that the guarantor Powers would be fully and irrevocably legally committed to the settlement upon signature, with all necessary internal parliamentary approval or ratification procedures already completed. The Monitoring Committee foreseen in the plan was strengthened, and the role of the United Nations in monitoring political developments was enhanced.

46. To provide additional assurances regarding implementation, provision was made for the United Nations to assume territorial responsibility over areas subject to territorial adjustment in the last phase before transfer, as explained in paragraph 34 of my 16 April 2004 report (S/2004/302). I did not propose a full-blown United Nations administration of these areas from day one, since this was not a scene of fresh conflict or strife and there existed a functioning administration. The approach was designed to address the Greek Cypriot concern that territory be handed over on time and in good order, and to give reassurance that this was not dependent on the goodwill of the other side. (It would, of course, remain within the ambit of the Security Council to mandate different arrangements should it so wish.)

47. On other aspects of security, the Greek Cypriot proposal to add a reference to the commitment of Cyprus and the guarantor Powers to international law and the Principles of the Charter of the United Nations was incorporated. As for troop levels permitted under the Treaty of Alliance, which stood at 6,000 under the plan on which the parties were negotiating, the Greek Cypriot concern that these be significantly reduced was met, in exchange for meeting a Turkish Cypriot concern that a symbolic presence be permitted in accordance with the levels provided for in the Treaty of Alliance (i.e., 950 Greek troops and 650 Turkish troops), even after the European Union accession of Turkey.

48. Another area of concern for the Greek Cypriot side related to the rights of displaced and dispossessed persons — a subject on which Mr. Papadopoulos did not initially propose changes, but which he reserved the right to reopen if the Turkish Cypriot side were to do so, which indeed it did. The property scheme was radically overhauled by removing all overall ceilings on property reinstatement, and instead providing that most Greek Cypriots would have some property reinstated in the Turkish Cypriot State (usually their former home and one third of the land, though more (often all) for small landowners, and all for returnees to four Karpas villages and the Maronite village of Kormakiti). The effect of this change was that the overall amount of property in the Turkish Cypriot State eligible to be reinstated to Greek Cypriots would be roughly doubled as compared with the previous version of the plan, and more evenly distributed among the dispossessed. The Property Board was restructured and the scheme was backed by guaranteed bonds and certificates linked to real property assets to enhance economic viability. While residency ceilings were slightly lowered as part of the package discussed with all parties at Bürgenstock, they were also made to rise earlier, thus bringing forward the day when Greek Cypriots could begin returning to their homes. Restrictions on the

establishment of secondary residences by Cypriot citizens anywhere in Cyprus were removed.

49. The Greek Cypriot side was also concerned that there should be no permanent derogations from the European Union *acquis*. All permanent derogations were removed, including what had been a permanent facility for the Turkish Cypriot State to impose restrictions on purchase of property in the Turkish Cypriot State (which had, in any case, to be non-discriminatory, so that no Greek Cypriot could be precluded if any other non-resident of the Turkish Cypriot State was permitted). As revised, any restrictions would be removed after 15 years. A Catalogue of Human Rights, enforceable in Cypriot courts, was included in the Constitution, based on the European Convention.

50. A final area of concern for the Greek Cypriot side related to citizenship, in particular of Turkish nationals who have settled in Cyprus. Provision was made in the relevant law that anyone who did not obtain permanent residency rights in accordance with the plan had to leave Cyprus within five years. The Greek Cypriot concern that there be no continuous flow of Turkish immigrants to Cyprus was met by the introduction of a safeguard mechanism related to Greek and Turkish immigration (instead of the permanent quota that had been provided for in the plan, which could, theoretically, have been regularly refilled). In accordance with federal law as provided for in the plan, the Immigration Board and the Supreme Court would be compelled to ensure the imposition of such restrictions in order to maintain the ratio of Greek and Turkish speakers living permanently in Cyprus.

Improvements largely inspired by Turkish Cypriot concerns

51. For their part, the Turkish Cypriot side sought to strengthen the bizonal character of the settlement. To this end, I introduced a modest reduction in residency ceilings, itself part of a largely agreed package of changes related to property affected by events since 1963, which doubled the amount of property that could be reinstated to Greek Cypriots. The Turkish Cypriots were ready to accept this change because it abolished the long-term lease option for dispossessed owners and provided greater simplicity and certainty for current users in a faster process, thus reducing the potential economic impact of the property scheme on the Turkish Cypriot State. I also introduced a safeguard clause related to the establishment of residency, mirroring the safeguard related to immigration mentioned above, under which the Turkish Cypriot State could act to ensure that no less than two thirds of its Cypriot permanent residents spoke its official language as their mother tongue (this would effectively allow over time some 100,000 Greek Cypriots to take up permanent residence in the Turkish Cypriot State, in addition to the unlimited provision for secondary residence).

52. The Turkish Cypriots were concerned to safeguard their political equality from being undermined in the long term by Greek Cypriots establishing residency in the north and seeking Turkish Cypriot internal constituent state citizenship status. This was addressed by providing for voting for federal Senators on the basis of mother tongue rather than internal constituent state citizenship status, though this basis was retained for the exercise of all other political rights at the federal level (while political rights at the constituent state and local level were exercised at the place of residency). To offset the alterations made to the transitional government to accommodate the Greek Cypriot side's concerns, provision was made for the first

President and Vice-President of the Presidential Council to rotate on an equal basis. The Turkish Cypriot concern regarding their relationship with the more numerous Greek Cypriots was addressed with language noting that neither side could claim authority or jurisdiction over the other.

53. Another key Turkish Cypriot concern related to the legal security of the settlement from challenge in European Union courts or in the European Court of Human Rights. On the former, the European Commissioner for Enlargement, consistent with the European Union's policy of accommodation of a settlement in line with the principles on which the European Union is founded, informed me that the Commission was committed to submitting the draft Act of Adaptation contained in the plan for consideration by the Council of the European Union prior to 24 April 2004, and for its adoption after a successful outcome of the separate simultaneous referendum before 1 May 2004. He also informed me of the Commission's commitment to bringing about a final outcome, without delay, which would result in the adaptation of primary law and ensure legal certainty and security within the European legal system for all concerned. Regarding the European Court of Human Rights, the plan on which the parties had committed to negotiate already provided for the United Cyprus Republic to request the Court, in accordance with its procedures, to strike out any proceedings currently before it concerning affected property. The finalized plan elaborated on this by including draft letters by which the federal government would inform the President of the European Court of Human Rights and the President of the Council of Europe that the settlement established a domestic mechanism for dealing with claims to affected property, and that to this end the United Cyprus Republic would be the sole responsible State party concerning such matters, and would request the Court to strike out any proceedings before it to allow the domestic mechanism to proceed. Individual right of recourse to the European Court of Human Rights should the domestic remedy prove inadequate was in no way limited.

54. The changed mode of entry into force of the settlement described above not only eased Greek Cypriot concerns, but also addressed Turkish concerns that the matter should be brought for approval by the Turkish Grand National Assembly only after the Turkish Cypriots had given their verdict on the plan.

55. Another Turkish Cypriot concern related to security was accommodated by allowing Turkey and Greece to station symbolic force levels as already provided for under the 1960 Treaty of Alliance (namely, 650 Turkish troops and 950 Greek troops) even after European Union accession, in exchange for considerably reducing the numbers in the interim. This arrangement would be subject to regular reviews with a view to eventual total withdrawal by mutual consent.

56. A further Turkish Cypriot concern arose from the fact that, under the plan, nearly a quarter of the Turkish Cypriots would be required to relocate in the period after a settlement due to the territorial adjustment. To assist this process, the Relocation Board's range of activities was strengthened, the time period for adjustment of territory was extended by six months, and the Turkish Cypriot State would be entitled, for a transitional period, to maintain a slightly larger number of police than under the previous version of the plan.

57. Although it was accepted that the federal government would be fully functioning from the moment the Foundation Agreement entered into force, the Turkish Cypriots were concerned that they would need more time in practical terms

to make the necessary economic and structural adjustments and hence sought modified transitional periods, in particular regarding harmonization issues. To this end, a federal law was introduced suspending the application in the Turkish Cypriot State of certain federal laws which transposed provisions of the *acquis communautaire*. In a similar vein, the Central Bank law included provision for a branch in the Turkish Cypriot State (but within the central structure) with clearly defined functions. Its purpose and functions would be reviewed after six months by experts from the International Monetary Fund and the European Union, and it could only be extended beyond one year by agreement.

Provisions of the plan which remained unchanged

58. A number of provisions of the plan were not materially altered. I will not describe them all, but shall mention a few that have been the subject of particular discussion.

59. The map was not changed. In accordance with the map, a majority of displaced Greek Cypriots could return to their homes under Greek Cypriot administration, and about a quarter of the Turkish Cypriots would need to be relocated. The Turkish Cypriot side expressed a desire for a straighter boundary between the constituent states, but never submitted a proposal to give effect to this. (They and Turkey did discuss certain territorial ideas informally with the United Nations.) Eventually, at Bürgenstock, they decided that, while they were not satisfied with the map in the plan, they would not propose an alternative. The Greek Cypriot side had indicated throughout that it would not reopen the territorial issue if the other side did not. (The Greek Cypriots did not discuss their own territorial ideas, even informally, with the United Nations.) Eventually, the Greek Cypriot side departed from this position on 30 March 2004, when it expressed for the first time interest in specific pieces of territory, but proposed as a trade-off something that had already been included as part of my bridging proposal.

60. The number of persons entitled to citizenship under the plan was not changed. The controversy related to the proposed list of no more than 45,000 persons on each side, a provision which had been carefully developed during the previous effort as described in my 1 April 2003 report (S/2003/398, para. 106). The Greek Cypriot side proposed to reduce this number; the Turkish Cypriot side proposed to increase it. It is worth noting that during the talks, Mr. Papadopoulos claimed that there were 119,000 "settlers" in Cyprus. (This claim accorded with the Greek Cypriot position in 2002 at the table, which was that there were 115,000 such persons in Cyprus, and that the Greek Cypriot side could provide a list of their names and place of origin in Turkey). If the Greek Cypriot figures are correct, then about half of the "settlers" would not receive citizenship or residency and would, in accordance with federal law, have to leave Cyprus. The Greek Cypriot figures are disputed by the Turkish Cypriot side.

61. Other than the addition of the reference to international law and the Principles of the Charter of the United Nations in the covering treaty, the provisions of the plan related to the Treaty of Guarantee did not change. The Greek Cypriot side did not propose any changes to the Treaty when discussing security issues in Cyprus, although Greece did so in its security talks with Turkey, and the Greek Cypriot side eventually did in a paper at Bürgenstock. The Turkish Cypriot side and Turkey opposed any change, and pointed out that understandings had been reached on these

issues in 2002 (on which see paragraph 120 of my 1 April 2003 report to the Security Council). In view of this fact, I did not modify this aspect of the plan in the absence of agreement to change it. The provisions are consistent with the Greek Cypriot side's long-stated position (with which the Turkish Cypriot side and Turkey do not agree) that the Treaty confers no unilateral right of military intervention. In any case, these provisions would apply in a totally different context from the 1960s and 1970s, namely, the full membership of the United Cyprus Republic in the European Union.

62. There were, in addition, a number of points from each side not incorporated into the final plan because they were outside its parameters, more of them from the Turkish Cypriot side. One example was a Turkish Cypriot proposal for separate majorities in the Senate on certain matters — a proposal contrary to a parameter of the plan that there should be no vetoes or requirement of separate majorities. Another was a Greek Cypriot proposal for strictly limiting the vote in the referendum in the north, to persons who were members of the two communities in 1963, as defined in the 1960 Constitution, and their descendants — a proposal which, aside from its apparent impracticability, would require the Turkish Cypriot side to accept the Greek Cypriot side's interpretation of the legal situation prior to the coming into being of the new state of affairs, which would have been contrary to the concept of the plan that neither side be required to do so.

Developments from 1 April until the referenda on 24 April

63. After Bürgenstock, as indicated in annex II, a number of the technical committees continued and finalized their work. I was also glad to receive, from the two sides, lists of persons numbering less than 45,000 to acquire citizenship upon entry into force of the Foundation Agreement. I also received the confirmation that I had requested from the Governments of Greece, Turkey and the United Kingdom that they agreed to the submission of the plan to referendum, and that, upon its approval and completion of their internal ratification procedures, they would sign into force the Treaty on matters related to the new state of affairs by 29 April 2004. (Turkey's initial letter had some ambiguities on this score, which I immediately took up, and on which I received satisfactory written clarifications.)

64. Meanwhile, after their return from Bürgenstock, the leaders on each side began to take positions regarding the 24 April referendum. On the Turkish Cypriot side, Mr. Talat came out strongly in favour of a "Yes" vote, while Mr. Rauf Denktash opposed it, and Mr. Serdar Denktash, after some consultation, took a neutral position. Prime Minister Erdoğan of Turkey spoke out strongly in favour of a "Yes" vote, as did Turkish Foreign Minister Gül. Messrs. Erdoğan, Gül and Talat also sought to convey to the Greek Cypriot public, by statements and interviews, and, in the case of Mr. Talat, by visiting the south, the determination of the Turkish Cypriots and Turkey to abide by their commitments under the plan and fully implement a settlement.

65. On the Greek Cypriot side, the situation was more complex, and requires fuller description. Mr. Papadopoulos, in a broadcast speech on 7 April 2004, called upon the people to reject the plan with a "resounding No". Among other things, the speech challenged the wisdom of "doing away with our internationally recognized state exactly at the very moment it strengthens its political weight, with its accession

to the European Union". I was surprised at this assessment, in the light of what Mr. Papadopoulos had said to me in Brussels in January. I was also surprised at his interpretation of the plan, since the plan is designed to allow each side to maintain its position on how the new state of affairs would come into being (see S/2003/398, paras. 66-67).

66. Likewise, given what he had said to me in The Hague in March 2003, I was concerned that the Greek Cypriot leader's speech appeared to call into question many fundamental aspects of the plan, even while acknowledging that the final version contained improvements. I do not believe the speech accurately reflected the contents of the plan on a range of issues. Nor do I accept the argument in the speech, repeated thereafter, that when the plan was finalized, Turkey's concerns were satisfied and Greek Cypriot concerns largely ignored (on this, see paras. 44-62 above). It might have been possible to accommodate other Greek Cypriot concerns had the Greek Cypriot side been more willing to engage in give and take at Bürgenstock and before, and to prioritize its objectives.

67. The Greek Cypriot political parties in Cyprus, all members of the National Council, had to decide their positions in the light of Mr. Papadopoulos' speech. Because it had awaited the final outcome of the negotiation, the "Yes" campaign did not get up and running until the last 10 days before the referendum.

68. In addition to the support of the Greek Government, the plan received the unequivocal support of Mr. Papadopoulos' two immediate predecessors as Greek Cypriot leader, Messrs. Clerides and Vassiliou, and of the leader of the second largest political party, Mr. Anastasiades of DISY. But after calling for postponement of the referenda, Mr. Papadopoulos' coalition partner in government, AKEL, which is the largest political party in Cyprus and has traditionally been an agent of reconciliation and reunification, called for a "soft No" to the plan unless additional guarantees were provided regarding security and implementation.

69. The Security Council is well aware of the efforts made to provide such guarantees, which in any case were already foreseen in appendix E of the plan. I am grateful to the Council for the strong substantive support received following my report of 16 April 2004 (S/2004/302). AKEL suggested that guarantees above and beyond those in the plan were necessary. In any case, the Greek Cypriot leader did not wish the Council to take decisions — even on security issues — before the referendum.

70. During the negotiations, both parties indicated that they would be looking to the international community for assistance in implementing the settlement, particularly the economically weaker Turkish Cypriots, who expressed concerns about their ability to undertake all the necessary steps without such help. The European Commission organized a high-level preparatory meeting in Brussels on 15 April 2004 to discuss the financial needs involved in a settlement, ensure that the necessary initial support would be in place, and prepare for a larger pledging conference later in the year. International participants in the conference supported the plan as a balanced and viable option for the settlement of the Cyprus problem, and strongly stated their willingness to provide concrete support for implementation should the Cypriots vote in its favour during the referenda. The pledges made — even though this was not a pledging conference — were sufficient to cover the key needs identified by the Commission for 2004. Mr. Talat attended to represent the

Turkish Cypriot side. The Greek Cypriot side was represented by the Permanent Secretary of the Planning Bureau.

71. The United Nations ensured that the plan and information about it had been freely available on its web site in Greek and Turkish since early 2003. The United Nations also provided information and materials and gave briefings to civil society groups on request. However, the efforts of the United Nations to provide explanations and clarifications about the plan to the public at large were hampered by the media climate on the island. Before Bürgenstock, it had not proved possible to find a Greek Cypriot television station prepared to work with a Turkish Cypriot television station to produce a bicomunal phone-in exercise with questions and answers on the plan directed to United Nations experts. After Bürgenstock, my Special Adviser was declined air time on state television — a matter he raised, along with a number of other concerns about certain aspects of the campaign, with the Greek Cypriot leader. I myself recorded an address to the people of Cyprus, underlining the unique opportunity that was at hand, and reassuring them of the commitment of the United Nations to ensure full implementation. This message received extensive coverage on both sides.

72. In the referenda, on the Greek Cypriot side, the plan was rejected by 75.8 per cent of voters and approved by 24.2 per cent of voters. On the Turkish Cypriot side, the plan was approved by 64.9 per cent of voters and rejected by 35.1 per cent of voters. Had it been approved on both sides, the three national parliaments — those of Greece and Turkey, as well as the United Kingdom — would have had to authorize signature into force of the treaty by their Governments by 29 April 2004. I issued a statement in the aftermath of the vote, which may be found in annex III.

Observations

Another opportunity missed

73. My plan, which was becalmed for a year for lack of political will, has now run aground on the decision of the Greek Cypriot electorate. Its fate is a powerful illustration of the difficulties of finding a solution to this long-standing problem.

74. During the course of a four-and-a-half-year effort, despite all the incentives for compromise, and regardless of whether a great deal of time or little time was available for talks, the parties found it difficult to agree on key points, even though they were well aware of the kinds of compromises that would be needed. They often left it to United Nations input to prod the process forward.

75. A solution obviously requires more than a comprehensive and carefully balanced peace plan. It also needs bold and determined political leadership on both sides in the island, as well as in Greece and Turkey, all in place at the same time, ready to negotiate with determination and to convince their people of the need to compromise.

76. It is regrettable that more could not be agreed between the parties themselves, and that little was done by some participants in the negotiations to prepare the people for a compromise. I have indicated in the present report a number of ways in which I believe the opportunity for frank and constructive negotiation was not fully utilized, and also my concerns regarding the way in which the plan was presented to

the public, particularly on one side. I wish to record, however, my appreciation of the efforts of Mr. Talat both in the process and in the run-up to the referendum.

77. I have always been able to count on Greece's support for my efforts. It is a credit to that country and her leaders that the Cyprus issue did not become a subject of party politics in the general elections held in early March. At Bürgenstock, the new Greek Government, just a few weeks into its tenure, saw itself more as a provider of advice than as a protagonist. Greece also scrupulously refrained from taking positions that might have appeared as interference in the internal debate in Cyprus. Ten days before the referenda, following a meeting of political leaders convened by the President of Greece, Prime Minister Karamanlis declared his view that the benefits of the plan outweighed the difficulties in it, and that the difficulties could be ironed out as Cyprus acceded to the European Union.

78. The change of policy engineered by the Turkish Government which enabled this new effort to take off reflects well on the political maturity of that country and her leaders. By the commitments made to me by Prime Minister Erdoğan on 24 January 2004 when we met at Davos, and by Turkey's determination throughout the February meetings in New York, the talks process in Cyprus, and the culmination in Bürgenstock, the effort to reach a settlement received an immeasurable boost. This leadership was late in arriving as it had to await the consolidation of the Government in Turkey and a realignment of Turkish Cypriot political forces, which unfortunately left little time for negotiation and campaigning. Nevertheless, Prime Minister Erdoğan's commitment to me to be one step ahead in the efforts for a solution was kept, and I appreciated the strong support of the Turkish Government, from the top down, for my efforts.

79. The prospect of accession of Cyprus to the European Union and the opening of Turkey's path towards that goal provided a context of balanced incentives. The leadership of the Turkish Cypriots and Turkey did not seize that opportunity while it existed. By the time they were willing and able to seek a compromise solution, the incentives for compromise on the Greek Cypriot side had substantially weakened, the Greek Cypriot leadership was pursuing a less flexible policy, and time was running very short.

80. While a comprehensive settlement has proved elusive, a great deal has been achieved in the course of the last four and a half years. The obstacles that hitherto prevented Cyprus initiatives from getting beyond generalities have been overcome. The result is a comprehensive and carefully balanced settlement proposal, ready to be implemented. While the plan is legally null and void in the aftermath of the referendum, its acceptance by the Turkish Cypriot electorate means that the shape of any final settlement to reunify Cyprus would appear to be set. The plan remains the only foreseeable basis which the Cypriots have to achieve a settlement.

81. A new fluidity has developed in the interaction of the players. We have witnessed hundreds of Greek Cypriot and Turkish Cypriot public officials working cooperatively together. Political party leaders from the two sides are in regular dialogue. The people themselves are able to meet and visit each other and develop joint efforts across a once-impregnable divide. Greece and Turkey have developed trust and friendship, to the point that a major setback in Cyprus did not cause a major setback in their own relations. These precious achievements must be preserved and built upon. But they are not a substitute for a settlement.

The vote on the Greek Cypriot side and its implications

82. As I trust this report demonstrates, the plan was a clear improvement, for both sides, on the plan which received the strong support of the Security Council only 13 months ago and which was accepted by both sides as a basis for negotiation leading to referenda. It represented the culmination of a 54-month effort, conducted with the strong support and practical backing of the Council. It conforms to the Council's long-held vision of a settlement, itself based on the agreements between Archbishop Makarios and Rauf Denktash in 1977, and Mr. Kyprianou and Mr. Denktash in 1979. It was deemed a workable plan by the European Commission, one that would allow Cyprus to speak with one voice and be properly represented in European Union institutions. It was deemed functional and financially sound, not only by the European Commission but also by the International Monetary Fund.

83. The rejection of such a plan by the Greek Cypriot electorate is a major setback. What was rejected was the solution itself rather than a mere blueprint. Benefits for the Greek Cypriots which have been sought for decades — including the reunification of Cyprus, the return of a large swathe of territory, the return of most displaced persons to their homes (including a majority, some 120,000, under Greek Cypriot administration), the withdrawal of all troops not permitted by international treaties, the halting of further Turkish immigration and (if Greek Cypriot figures are accurate) the return to Turkey of a number of "settlers" — have been foregone. The result is the maintenance of the status quo — a status quo deemed unacceptable by the Security Council.

84. Greek Cypriots rightly expect the international community to respect their decision. It may be that, for a range of reasons, the electorate was not adequately prepared for the decision with which it was faced — because of the shortness of time, or a lack of objective information, or the imbalance between the "No" and "Yes" campaigns, or the belief that a new opportunity would come along soon, or a combination of all these factors. If so, there is always the possibility that, following a period of reflection, something may emerge which offers a way to refloat the plan and salvage a settlement from the current situation. In this context, fears regarding security and implementation appear to be prominent among Greek Cypriots — based, to a significant extent, on historic distrust of Turkish intentions. Without reopening the provisions of the plan which have been voted on and approved by the Turkish Cypriots, the Security Council would, in my view, be well advised to stand ready to address such fears, provided these can be articulated with clarity and finality by the Greek Cypriot side.

85. However, the sheer size of the "No" vote raises even more fundamental questions. This is the first time that the Greek Cypriot public has been asked to vote on a bicommunal, bizonal federal solution of the Cyprus problem. Such a solution means not just two constituent states, but also political equality and the sharing of power. Yet the situation today is very different from that which existed in the 1970s, when the leaders of the two communities agreed to seek such a solution. The contrast between economic stagnation in the north and prosperity in the south is visible and palpable. A generation or more of Cypriots have no memory of life on a unified island. Most of the dispossessed in the south, by hard work and enterprise, have carved out a prosperous livelihood, as have many others who are not originally from the north. While they strongly state their wish to reunify, many see in a settlement very little gain, and quite a lot of inconvenience and risk.

86. These are matters on which Greek Cypriots may wish to reflect in the coming period, when there is little prospect of any renewed peace effort. Civil society, not just political parties, may need to play a role in such a reflection. The European Union will no doubt contribute to this exercise. If the Greek Cypriots are ready to share power and prosperity with the Turkish Cypriots in a federal structure based on political equality, this needs to be demonstrated, not just by word, but by action.

The vote on the Turkish Cypriot side and its implications

87. I welcome the decision of the Turkish Cypriots. They have clearly and convincingly come out in favour of the reunification of Cyprus in a bicomunal, bizonal federation. They have done so despite the pain and dislocation that would have been caused by the relocation of about one third of the Turkish Cypriots under the plan, given the territorial arrangements and property provisions. Clearly, the benefits of European Union membership were an important factor in this. In opting for a settlement, the Turkish Cypriots have broken with the decades-old policies of seeking recognition of the "state" they purported to create in 1983.

88. While the Turkish Cypriots may feel rebuffed after the 24 April vote, their best course is not to turn their back on reunification, but to redouble their determination to achieve it. They, and Turkey, would be well advised to take every opportunity to reach out to the Greek Cypriots, and do everything in their power to promote reconciliation. I am encouraged that both Mr. Talat and the Government of Turkey have made clear that they respect the wishes of the Turkish Cypriots for reconciliation and reunification, and that their policy will be guided accordingly.

89. In the aftermath of the vote, the situation of the Turkish Cypriots calls for the attention of the international community as a whole, including the Security Council. The Turkish Cypriot leadership has, over the years, denounced the restrictions and barriers they face as "embargoes". They point to the disparity between the outcomes of the referenda as evidence that the Greek Cypriot leadership does not speak for the Turkish Cypriots. The Greek Cypriot side has consistently denied the existence of "embargoes", insisting that the nub of the problem is the failure of the Turkish Cypriots to accept the validity of the Republic of Cyprus. After the proclamation of the "Turkish Republic of Northern Cyprus" in 1983, the Security Council, by resolution 541 (1983), considered the declaration legally invalid, and called on all States not to recognize any Cypriot state other than the Republic of Cyprus. By resolution 550 (1984), the Council reiterated this call and called upon all States not to facilitate or in any way assist the secessionist entity.

90. Recognition or assisting secession are clearly contrary to the resolutions of the Security Council, and would be contrary to the entire goal in view. Nor would such steps respect the will of the Turkish Cypriots, who have voted for reunification. However, this vote has undone whatever rationale might have existed for pressuring and isolating them. The rapid reaction of the European Union to the new situation was a welcome first step. I hope that the European Union will follow up these steps with further ones. I have taken note of the expressed Greek Cypriot intention for the Republic of Cyprus, as a member of the European Union, to extend to the Turkish Cypriots as many of the benefits of European Union membership as are "possible and permissible".

The way ahead

91. As for the future of my mission of good offices, the outcome of the referenda has resulted in a stalemate. Mr. Papadopoulos has stated that he is not prepared to submit the plan to referendum once again unless unspecified changes are made. Others on the Greek Cypriot side speak of a second referendum, and look for unspecified additional guarantees on security and implementation. For their part, having approved the plan at referendum, the Turkish Cypriot side is opposed to reopening it for negotiation. Neither of the Cyprus parties has made a proposal to the United Nations or to the other — to my knowledge — to resolve this impasse. I do not see any basis for resuming my good offices as long as this stand-off remains.

92. Meanwhile, in the aftermath of the watershed vote of 24 April, I believe that a fundamental reassessment of the full range of United Nations peace activities in Cyprus is timely. That reassessment should include the four-decade-old search for peace in Cyprus, and consider how best to address the problem in the future. It should also bear in mind that the implicit central purpose of all peacekeeping operations is to provide an environment conducive to the resolution of conflict. As outlined in my latest report on UNFICYP (S/2004/427), I accordingly intend to conduct a review, to be completed within three months, of UNFICYP's mandate, force levels and concept of operations, in the light of the developments on the ground, the positions of the parties, and any views the Security Council might have.

93. I have already indicated my hope that Greek Cypriots will reflect on the outcome of this process in the coming months. In the meantime, I believe that the members of the Council should encourage the Turkish Cypriots, and Turkey, to remain committed to the goal of reunification. In this context and for that purpose and not for the purpose of affording recognition or assisting secession, I would hope they can give a strong lead to all States to cooperate both bilaterally and in international bodies to eliminate unnecessary restrictions and barriers that have the effect of isolating the Turkish Cypriots and impeding their development, deeming such a move as consistent with Security Council resolutions 541 (1983) and 550 (1984).

Conclusion

94. I wish to thank the Security Council for its strong support of my efforts; the many Member States who provided diplomatic assistance, material resources, technical expertise or conference support; the European Union, including the European Commission, for the truly exemplary assistance and support it provided, in what was a model of European Union/United Nations cooperation; and the many international organizations, including those of the United Nations system, which rolled up their sleeves and joined in this team effort.

95. I could not close without expressing my warmest thanks to my Special Adviser, Mr. Alvaro de Soto, and his team, for the outstanding dedication which they brought to a difficult task. Their careful and creative peacemaking effort offered the Cypriots the best chance they have ever had to reunify their country.

96. I know that the failure of this effort, twice now in little over a year, is a source of sadness and confusion for Cypriots, Greek Cypriots and Turkish Cypriots alike, not to mention many in Greece and Turkey, in the European Union, and throughout

the international community. Many Cypriots from all walks of life worked with courage and determination to achieve a settlement. I am confident they will continue these efforts. Indeed, they must. The prospects for the reunification of their country now rest primarily in their hands

Annex I

Secretary-General's statement to the press

13 February 2004

Negotiations resumed on 10 February at United Nations Headquarters in New York between the two parties in Cyprus, in my presence.

Following three days of meetings and consultations, I am pleased to announce that the parties have committed to negotiating in good faith on the basis of my plan to achieve a comprehensive settlement of the Cyprus problem through separate and simultaneous referenda before 1 May 2004.

To this end, the parties will seek to agree on changes and to complete the plan in all respects by 22 March 2004, within the framework of my mission of good offices, so as to produce a finalized text.

In the absence of such agreement, I would convene a meeting of the two sides — with the participation of Greece and Turkey in order to lend their collaboration — in a concentrated effort to agree on a finalized text by 29 March.

As a final resort, in the event of a continuing and persistent deadlock, the parties have invited me to use my discretion to finalize the text to be submitted to referenda on the basis of my plan.

In addition, the parties have agreed on the other suggestions contained in my invitation of 4 February 2004. They have also decided to form a technical committee on economic and financial aspects of implementation, to be chaired by the United Nations.

The guarantor Powers have signified their commitment to this process and to meeting their obligations under it.

I welcome these commitments as well as the assurances of the European Union to accommodate a settlement and the offer of technical assistance by the European Commission. I look forward to drawing on this assistance as well as that of others in the course of the negotiations.

The talks will re-convene in Cyprus on Thursday, 19 February, with direct meetings between the two parties in the presence of my Special Adviser, Alvaro de Soto. The technical committees on laws and treaties will re-convene on the same day.

I commend the constructive spirit and political will displayed by both parties, as well as by Greece and Turkey, to reach this agreement.

All concerned now face historic responsibilities to bring about a just and lasting peace in Cyprus. I wish them well, and look forward to working closely with them.

Annex II

A description of the work of the technical committees

1. The Technical Committees on Laws and Treaties, agreed to in my presence in October 2002, recommenced work on 19 February 2004, picking up where they had left off in February 2003 in their efforts to finalize the federal legal framework for the United Cyprus Republic.
2. In the Technical Committee on Laws, some of the draft laws were replaced with new texts and additional new laws were proposed, generally for the purposes of complying with the provisions of the European Union *acquis communautaire*. Just before their work had ceased in February 2003, it had been envisaged that roughly 44 essential laws would be completed before the plan was submitted to referendum, and that the remaining laws would be completed after the referendum according to a strict timetable. When work resumed, the Turkish Cypriots preferred to adhere to this approach, as I had indicated in my 4 February letter. However, the Greek Cypriots, who pointed out that the halting of the work in 2003 and the short time now left for the effort was not their fault, insisted that many more laws had to be completed to ensure the viable functioning of the federal structures, to avoid any gaps or legal uncertainty, and to ensure that Cyprus fully met its European Union obligations. Their proposed list contained well over 100 laws.
3. Through the extraordinary efforts of Greek Cypriots and Turkish Cypriots alike, 131 laws (comprising 4 constitutional laws, 124 federal laws and 3 Cooperation Agreements, and running in total to almost 9,000 pages) were provisionally finalized — with few issues outstanding — by 26 March 2004. The laws covered the areas of constitutional, criminal, governmental and legislative procedure, public administration, administration of justice, European Union and external affairs, police, citizenship, immigration and asylum, budget, taxation, capital markets, banking and finance, trade, customs and excise, meteorology, aviation, shipping and maritime, natural resources, communications, intellectual property and antiquities.
4. In a related effort, one of the subcommittees focused on issues concerning the harmonization of legislation with the European Union *acquis communautaire*, particularly for the future Turkish Cypriot State.
5. The Committee on Treaties reviewed approximately 2,000 treaties and instruments submitted by both sides for their compatibility with the settlement. After some proposals were withdrawn and other objections resolved, 1,134 treaties and instruments were included in the final list that would bind the United Cyprus Republic on the coming into being of the new state of affairs.
6. On 29 March in Bürgenstock, together with the bridging proposals I put forward on the main political issues, I presented the laws and list of treaties to the leaders, along with United Nations bridging proposals to address the relatively small number of issues still outstanding. The parties submitted their comments in the following days, which were taken into account in the finalized plan of 31 March 2004.
7. During April, the laws and list of treaties were reviewed by the United Nations, with the assistance of the parties, for internal consistency and coherence, and compatibility with the main body of the plan. The final texts were formally

authenticated by the parties in the presence of my Special Adviser on Cyprus on 23 April 2004.

8. In early 2003, with the approval of the leaders, the United Nations had organized competitions for the design of the flag and composition of the anthem of the proposed United Cyprus Republic, attracting 1,506 and 111 entries, respectively, from around the world. Two technical committees, each with three Greek Cypriots and three Turkish Cypriots, reviewed the entries. After several days of careful deliberation, each committee made a single recommendation which was accepted by the political leadership on both sides.

9. The 13 February Agreement provided for the establishment of a fifth technical committee, namely the Technical Committee on Economic and Financial Aspects of Implementation. It not only considered the economic viability of the provisions of the plan and made recommendations for changes or additions, but also developed proposals for implementation to be drawn upon after a settlement entered into force. Four subcommittees contributed recommendations on the Central Bank; the Public Financial Sector; Cooperation, Coordination and Harmonization; and Property and Relocation, many of which were reflected in the final version of the plan. Working groups also looked at merger issues, the non-banking financial sector, insurance, pensions, social security, education, energy, agriculture and natural resources and other harmonization issues. The work was greatly enhanced by the involvement of experts seconded from the above-mentioned key financial institutions who, while noting that the work was subject to a number of uncertainties, including about basic data, could ensure that the solution was economically and financially viable and, if implemented as recommended by the Committee with the necessary financial support, represented a solid and workable economic basis for the reunification of Cyprus and its future stable economic growth.

10. In mid-March, the leaders agreed to establish two additional technical committees, comprising experts in the field of administration, management and human resources, to determine the initial structure and staffing of the federal government, and identify the premises it would use immediately on entry into force of the Foundation Agreement. These committees produced the organizational charts for the federal government and staffing lists for its various offices, services and independent institutions and commissions and identified buildings on each side of the dividing line to house them for a transitional period. (Ultimately, the federal buildings would have been consolidated in the area already zoned for the purpose in the Nicosia Master Plan.) Including the federal police and the postal service employees, the federal government would have initially comprised 6,181 positions, falling within the ceiling recommended by the economic committee that had evaluated the parameters for a financially sound federal budget. Both sides submitted lists with the names of existing public servants eligible for service in the federal government in accordance with the Constitution, with final selection to have occurred after a positive result in the referenda. The plan made clear that the status, rights and entitlements of all public servants would be safeguarded irrespective of whether they worked for the federal or constituent state government.

11. The plan also required the identification of three international judges and a registrar for the Supreme Court. Highly qualified individuals with a combination of experience in European law and federal systems were selected in close consultation with the parties, and agreed to be ready to serve from the moment of entry into force.

Annex III

Statement issued by the Spokesman of the Secretary-General on the outcome of the referenda in Cyprus

24 April 2004

The Secretary-General notes the outcome of the separate simultaneous referenda held today in Cyprus on the settlement plan finalized on 31 March 2004. Since it was approved in the Turkish Cypriot referendum but not in the Greek Cypriot referendum, the Foundation Agreement will not enter into force.

The Secretary-General respects the outcome of the two referenda. He knows that for many Cypriots the decision how to vote was a difficult one. The goal of the effort over the last four and a half years has been to bring about reunification so as to enable a reunited Cyprus to join the European Union. That goal has not been achieved. A unique and historic chance to resolve the Cyprus problem has been missed.

The Secretary-General intends to give careful thought to the implications of today's result. Meanwhile, Cyprus will remain divided and militarized as it accedes to the European Union, and the benefits of a settlement will not be realized.

The Secretary-General applauds the Turkish Cypriots, who approved the plan notwithstanding the significant sacrifices that it entailed for many of them. He regrets that the Turkish Cypriots will not equally enjoy the benefits of EU membership as of 1 May 2004, but he hopes that ways will be found to ease the plight in which the people find themselves through no fault of their own.

Together with a broad cross-section of the international community, the Secretary-General remains convinced that the settlement plan put to the two sides in today's referenda represents a fair, viable and carefully balanced compromise — one that conforms with the long-agreed parameters for a solution and with the Security Council's vision for a settlement, and meets the minimum requirements of all concerned. Clearly, a large majority of the Greek Cypriot electorate did not share that judgement today. He hopes that they may nevertheless arrive at a different view in the fullness of time, after a profound and sober assessment of today's decision. For a settlement to the long-standing Cyprus problem would benefit the people of Cyprus, as well as the region and the wider international community.

The Secretary-General will report to the Security Council in due course. The Council may wish to evaluate the outcome and its implications.

The Secretary-General appreciates the strong backing that the plan received from many political figures on both sides. He is grateful that Greece and Turkey, the Security Council, the European Union and the broader international community stood ready to throw their support behind the Cypriots and work to ensure full implementation. Above all, he is thankful to his Special Adviser and his outstanding team, as well as for the dedication of many people from all walks of life in Cyprus, Greek Cypriots and Turkish Cypriots alike, who struggled for reunification and reconciliation.